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Steven Lurie

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EXAMINER

BENGZON, GREG C

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/032,518 | Applicant(s) LURIE, STEVEN | |
| | Examiner GREG BENZON | Art Unit 2444 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 5, 8-10, 21, 24, 25, 28-30, 46-48 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-5, 8-10, 21, 24-25, 28-30, 46-48, 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application has been examined. Claims 1, 4-5, 8-10, 21, 24-25, 28-30, 46-48,50 are pending. Claims 2-3,6-7, 11-20, 22-23, 26-27, 31-45,49 have been cancelled.

Response to Arguments

Applicant's arguments filed 08/20/2009, 02/10/2010 have been fully considered but they are moot in view of the new grounds for rejection.

The Applicant presents the following argument(s) [*in italics*]:

... Examiner was attempting to make the rejection based on the teaching and suggestions inspired by the invention as claimed. Although hindsight view is difficult to avoid...In view of Pugliese and other references cited by the examiner, an ordinary person would not convert the Pugliese system into a portal for advisors to sell their advices on various different fields, at prices...Pugliese merely "acts just like a sales person in a retail setting." A sales person in a retail setting does not charge the customers for talking to the customer.

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

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any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The prior art by Itzhaki disclosed *advisors selling their advices on various different fields, at prices*.

The Examiner notes that Itzhaki is fully encompassing the same concepts and limitations as the claimed invention because Itzhaki disclosed professional counselors with fee-based services targeted towards a specific field of specialization.

Itzhaki Paragraph 11 disclosed wherein a client selects a counselor and time of contact from a list, and at the selected time the service contacts the client and the counselor in order to establish the communication link between them. Itzhaki Paragraph 30 disclosed including relevant field of service and Itzhaki Figure 10a disclosed including the price of services for the counseling service. Itzhaki Paragraph 38 disclosed finding a list of counselors best matched to the client needs.

Furthermore Itzhaki Paragraph 49 disclosed wherein if for some reason, a counselor is not available for a selected channel and time, the system can prompt a CSR (customer service representative) to assist the client in locating a suitable and

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available counselor. The Examiner notes that locating a suitable and available counselor is equivalent to finding *highest ranking service provider*.

The Examiner notes that Itzhaki Paragraph 28 disclosed an IVR system and that at the time of the invention it was well-known in the networking art that IVR (Interactive Voice Response) systems enable interactive voice response from the mediated party to be received by the mediation system and transformed into a computer-based communication format.

The Examiner notes that while Itzhaki disclosed wherein a customer service representative is a human, it would have been an obvious variation in view of what was well-known in the networking art to implement said assistance by Itzhaki using IVR systems (Interactive Voice Response).

Itzhaki disclosed (re. Claim 1) -- '*storing, in a database coupled to the data processing system, information about a set of service providers, the information including a service offer from each of the service providers to provide a separate service* (Itzhaki -Paragraph 11 disclosed wherein a client selects a counselor and time of contact from a list, and at the selected time the service contacts the client and the counselor in order to establish the communication link between them) *to customers over a communication connection provided by the data processing system and a price specified by a respective service provider for the service.* (Itzhaki- Figure 10a disclosed including the price of services for the counseling service.)

Itzhaki disclosed (re. Claim 1) wherein *if at the service seeker specified appointment time the selected service provider is unavailable for the first real time*

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communication connection, identifying, by the data processing system, a relevant field of service of the selected service provider base on the information stored in the database,(Itzhaki -Paragraph 38 finding a list of counselors best matched to the client needs. The Examiner notes that locating a suitable and available counselor is equivalent to finding highest ranking service provider.)

determining, by the data processing system, a highest ranking service provider in the relevant field of service,(Itzhaki- Paragraph 38 finding a list of counselors best matched to the client needs. The Examiner notes that locating a suitable and available counselor is equivalent to finding highest ranking service provider.)

and connecting, by the data processing system, the service seeker to the highest ranking service provider in the relevant field of service' (Itzhaki Paragraph 49 disclosed wherein if for some reason, a counselor is not available for a selected channel and time, the system can prompt a CSR to assist the client in locating a suitable and available counselor wherein the suitable counselor is the best match to the client needs. The Examiner notes that locating a suitable and available counselor is equivalent to finding highest ranking service provider.)

The Applicant presents the following argument(s) *[in italics]*:

Applicant respectfully requests the examiner to keep in mind the requirement to consider the claimed invention as a WHOLE (see, e.g., MPEP 214102.I). In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103

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is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.

The Examiner notes that Itzhaki is fully encompassing the same concepts and limitations as the claimed invention because Itzhaki disclosed professional counselors with fee-based services targeted towards a specific field of specialization.

It would have been obvious for Itzhaki to incorporate Pugliese et al. and vice versa in order to implement the necessary details (e.g. scheduling, interactive communication, and billing) regarding the client-counselor system.

Priority

The effective date of the subject matter in the claims in this application is December 27, 2001.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21,24-25,28-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 21,24-25,28-30 pertain to '*a computer-readable storage medium having stored thereon computer-executable instructions*'. Upon inspection of the Applicant

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Specifications (Page 10, Paragraph 59) the Examiner interprets the *computer-readable storage medium* being possibly embodied by, but is not limited to, RAM, ROM, etc.

Thus applying the broadest reasonable interpretation in light of the specification and taking into account the meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the networking art, the claim as a whole covers both transitory and non-transitory media including those entirely of transmission mediums such carrier waves. The Examiner notes that transmission mediums embodying computer-executable instructions are non-statutory subject matter because they do not fall into any of the categories of statutory subject matter.

The Examiner notes that where carrier waves are concerned, the transmission medium is an embodiment of a data signal. Absent some physical context, a signal per se is an abstract idea in much the same way that a mathematical algorithm without context is an abstract idea.

The claims may be amended by changing '*computer readable medium*' to -- 'non transitory *computer readable medium*' -- thus excluding that portion of the scope covering transitory signals. The scope of the disclosure given the state-of-the-art covers both transitory and non-transitory media, and this amendment would limit the claims to an eligible (i.e. non-transitory) embodiment.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-5,8, 10, 21,24-25, 28, 30 , and 46-48,50 are rejected under 35 U.S.C. 103(a) as being anticipated by Pugliese et al. (US Publication 2001/0044751) in view of Whyel (US Publication 2001/0027481) further in view of Doganata (US Patent 6798753) further in view of Pickering (US Patent 6076093) further in view of Kung (US Patent 6917610) further in view of Itzhaki (US Publication 2002/0010616).

With respect to Claim 1, Pugliese disclosed a method comprising:
the data processing system receiving, from a service seeker, an appointment request for a live advice communication with a selected service provider during a specified appointment time; (Pugliese - Figures 4-7, 18-20 Paragraph 115) providing the appointment request to the selected service provider; (Pugliese - Paragraph 207-209) once the appointment request is accepted by the selected service provider, initiating a live advice communication appointment between the service seeker and the selected service provider; (Pugliese – Paragraph 322, Paragraph 327) and connecting the selected service provider with the service seeker for a live advice communication at the specified appointment time. (Pugliese - Paragraph 211)

The Examiner notes that Pugliese disclosed a method for instantaneous live advice communication, but does not disclose a scheduling method for said live advice session, wherein the service seeker and the service provider are able to mutually agree on an appointment schedule in advance.

With respect to Claim 1, Pugliese did not disclose wherein providing the appointment request further comprises:

the data processing system displaying a list of service providers to a service seeker via an internet connection, the list indicating individually whether each service provider in the list of service providers is currently available to provide live advice to the service seeker at a time when the service seeker is viewing the list;

the data processing system determining whether the selected service provider is available during the service seeker specified appointment time; when the selected service provider is unavailable during the appointment time, determining one or more alternate available appointment times of the selected service provider; providing the one or more alternate appointment times to the service seeker; and receiving an appointment time selected from the one or more alternate appointment times by the service seeker as the service seeker specified appointment time. Pugliese did not disclose (re. Claim 1) receiving a message at the data processing system from the selected service provider, the message indicating whether or not the appointment request is accepted.

Pugliese did not disclose (re. Claim 1) *the data processing system monitoring time spent on the live advice; and the data processing system billing the service seeker on behalf of the selected service provider based on the time spent on the live advice.*

Since Pugliese states that frustration and lack of personal attention is the main reason for a buyer terminating an online purchase, Pugliese makes an effort to provide a live salesperson, and even allows for other shoppers to join in the session.

(Paragraph 7-8) The Examiner respectfully notes that during peak shopping hours, peak shopping seasons, or a sudden upward spike in demand for a product, the on-demand scheduling system by Pugliese would be quickly be inundated, overwhelmed and be rendered unsatisfactory since shoppers would have long wait times while the system routes requests to the next available live agent, thus defeating the original intent of Pugliese. Thus Pugliese would have found it appropriate and advantageous to search for and implement a call-ahead feature to enable shoppers to schedule an appointment in advance and avoid long wait times during said peak hours.

Whyel disclosed a method for appointment scheduling for live consultation with service providers.

With respect to Claim 1, Whyel disclosed scheduling a live advice appointment session with a service provider. (Figures 13A thru 14C, Paragraph 13-15, Paragraph 65, Paragraph 82) Whyel disclosed wherein providing the appointment request further

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comprises: determining whether the selected service provider is available during the service seeker specified appointment time; (Whyel – Figure 13B Item 1350, Paragraph 112-113) when the selected service provider is unavailable during the appointment time, determining one or more available appointment times of the selected service provider; (Whyel – Figure 13B Item 1355) providing the one or more alternate appointment times to the service seeker; (Whyel – Figure 13B Item 1360), and receiving a selected appointment time from the one or more alternate appointment times once selected by the service seeker. (Whyel – Figure 13B, Item 1370, Paragraph 108 thru Paragraph 115)

Whyel disclosed (re. Claim 1) receiving a message at the data processing system from the selected service provider, the message indicating whether or not the appointment request is accepted. (Whyel-Paragraph 51, 121)

Pugliese and Whyel are analogous art because they present concepts and practices regarding facilitation of live advice communication between service seekers and service providers. (Pugliese – Paragraph 8, Whyel – Paragraph 14) At the time of the invention it would have been obvious to combine the teachings of Whyel regarding scheduling of incoming communication requests into the system and method of Pugliese. The said combination would enable the combined system of Pugliese to 1) enable the service seeker to determine availability of the service provider in advance of the live session, and 2) enable service provider to screen, filter, redirect, or defer incoming service requests. The suggested motivation for doing so would be, as Whyel

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suggests (Whyel - Paragraph 10), to overcome requirements for human intervention for implementing appointment reservations and scheduling.

Pugliese- Whyel disclosed (re. claim 1) wherein the selected service provider accepts a communications connection from the service provider system, linking the service seeker and the selected service provider via the communications devices for a live advice communication therebetween. (Pugliese - Paragraph 115)

However while Pugliese-Whyel substantially disclosed the invention Pugliese-Whyel did not disclose details regarding the establishment of the live communication conference.

Pugliese-Whyel did not disclose (re. Claim 1) wherein *at the live advice communication appointment, the data processing system establishing a first real time communication connection with one of the service seeker or service provider;*

in response to establishing the first real time communication connection, the data processing system establishing a second real time communication connection with one of the service seeker or service provider; and

in response to establishing at least the second real time communication connection, the data processing system connecting the first and second real time communication connections to the service provider provide live advice to the service seeker at the scheduled appointment.

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Doganata disclosed (re. Claim 1) wherein at the live advice communication appointment, the data processing system establishing a first real time communication connection with one of the service seeker or service provider; (Doganata-Column 4 Lines 50-65,'dial-out' , Column 6 Lines 40-65)

in response to establishing the first real time communication connection, the data processing system establishing a second real time communication connection with one of the service seeker or service provider; and (Doganata-Column 4 Lines 50-65,'dial-out' , Column 6 Lines 40-65)

in response to establishing at least the second real time communication connection, the data processing system connecting the first and second real time communication connections to the service provider provide live advice to the service seeker at the scheduled appointment. (Doganata-Column 4 Lines 50-65,'dial-out' , Column 6 Lines 40-65)

Pugliese, Whyel, and Doganata are analogous art because they present concepts and practices regarding facilitation of audio/video conferences between service seekers and service providers. (Pugliese – Paragraph 8, Whyel – Paragraph 14) At the time of the invention it would have been obvious to combine the teachings of Doganata regarding scheduling of incoming communication conference requests into the system and method of Pugliese- Whyel. The said combination would enable a system wherein after teleconference calendar entry is created, the process for

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establishing the conference starts and proceeds automatically. (Doganata- Column 2 Lines 45-65)

The combination of Pugliese-Whyel-Doganata disclosed determining whether the selected service provider is available during the service seeker specified appointment time. (Whyel – Figure 13B Item 1350, Paragraph 112-113)

However while Pugliese-Whyel-Doganata substantially disclosed the claimed invention Pugliese-Whyel-Doganata did not disclose (re. Claim 1) the data processing system displaying a list of service providers to a service seeker via an internet connection, the list indicating individually whether each service provider in the list of service providers is currently available to provide live advice to the service seeker at a time when the service seeker is viewing the list.

Pickering disclosed (re. Claim 1) the data processing system displaying a list of service providers to a service seeker via an internet connection, the list indicating individually whether each service provider in the list of service providers is currently available to provide live advice to the service seeker at a time when the service seeker is viewing the list; (Pickering-Figure 2, Column 2 Lines 40-55)

Pugliese, Whyel, Doganata and Pickering are analogous art because they present concepts and practices regarding facilitation of audio/video conferences

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between service seekers and service providers. (Pugliese – Paragraph 8, Whyel – Paragraph 14) At the time of the invention it would have been obvious to combine the teachings of Pickering regarding scheduling of incoming communication conference requests into the system and method of Pugliese- Whyel -Doganata. The said combination would enable an real-time,interactive directory system adapted to find, access, and use status information. (Pickering-Column 2 Lines 5-15)

However while Pugliese-Whyel-Doganata-Pickering substantially disclosed the claimed invention Pugliese-Whyel-Doganata-Pickering did not disclose (re. Claim 1) *the data processing system monitoring time spent on the live advice; and the data processing system billing the service seeker on behalf of the selected service provider based on the time spent on the live advice.*

The Examiner notes that Whyel disclosed a SERVICE INTERVAL TIME which is the expected duration of the service but is not the actual duration of the service. Whyel would have been motivated to look for a more precise billing method in order to accommodate variations between the expected and the actual duration and provide better value to the service seeker.

Kung disclosed (re. Claim 1) *the data processing system monitoring time spent on the live advice; (Kung-Column 4 Lines 5-15,'length of the previous communication')*

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and the data processing system billing the service seeker on behalf of the selected service provider based on the time spent on the live advice.(Kung-Column 2 Lines 50-65,'identify any communication the cost of which should be billed to a different party')

Pugliese, Whyel, Doganata, Pickering, and Kung are analogous art because they present concepts and practices regarding facilitation of audio/video conferences between service seekers and service providers. (Pugliese – Paragraph 8, Whyel – Paragraph 14) At the time of the invention it would have been obvious to combine the teachings of Kung regarding an activity log into the system and method of Pugliese-Whyel –Doganata-Pickering. The said combination would enable the system of Pugliese- Whyel –Doganata-Pickering-Kung to automatically forward the charges to the client and no longer submit paper copies of their expense reports.

While the combination of Pugliese-Whyel-Doganata-Pickering-Kung substantially disclosed the claimed invention Pugliese-Whyel-Doganata-Pickering-Kung did not disclose (re. Claim 1) -- ‘ *storing, in a database coupled to the data processing system, information about a set of service providers, the information including a service offer from each of the service providers to provide a separate service to customers over a communication connection provided by the data processing system and a price specified by a respective service provider for the service* ‘ -- and -- ‘ *if at the service seeker specified appointment time the selected service provider is unavailable for the first real time communication connection, identifying, by the data*

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processing system, a relevant field of service of the selected service provider base on the information stored in the database, determining, by the data processing system, a highest ranking service provider in the relevant field of service, and connecting, by the data processing system, the service seeker to the highest ranking service provider in the relevant field of service' .

Itzhaki Paragraph 11 disclosed wherein a client selects a counselor and time of contact from a list, and at the selected time the service contacts the client and the counselor in order to establish the communication link between them. Itzhaki Paragraph 30 disclosed including relevant field of service and Itzhaki Figure 10a disclosed including the price of services for the counseling service. Itzhaki Paragraph 38 disclosed finding a list of counselors best matched to the client needs.

Furthermore Itzhaki Paragraph 49 disclosed wherein if for some reason, a counselor is not available for a selected channel and time, the system can prompt a CSR to assist the client in locating a suitable and available counselor. The Examiner notes that locating a suitable and available counselor is equivalent to finding *highest ranking service provider*.

The Examiner notes that Itzhaki Paragraph 28 disclosed an IVR system and that at the time of the invention it was well-known in the networking art that IVR (Interactive Voice Response) systems enable interactive voice response from the mediated party to be received by the mediation system and transformed into a computer-based communication format.

The Examiner notes that while Itzhaki disclosed wherein a customer service representative is a human, it would have been an obvious variation in view of what was well-known in the networking art to implement said assistance by Itzhaki using IVR systems (Interactive Voice Response).

Itzhaki disclosed (re. Claim 1) -- *' storing, in a database coupled to the data processing system, information about a set of service providers, the information including a service offer from each of the service providers to provide a separate service to customers over a communication connection provided by the data processing system and a price specified by a respective service provider for the service '*(Itzhaki - Paragraph 11 disclosed wherein a client selects a counselor and time of contact from a list, and at the selected time the service contacts the client and the counselor in order to establish the communication link between them. Itzhaki Figure 10a disclosed including the price of services for the counseling service.)

Itzhaki disclosed (re. Claim 1) wherein *if at the service seeker specified appointment time the selected service provider is unavailable for the first real time communication connection, identifying, by the data processing system, a relevant field of service of the selected service provider base on the information stored in the database,(Itzhaki Paragraph 38 finding a list of counselors best matched to the client needs.)*

determining, by the data processing system, a highest ranking service provider in the relevant field of service,(Itzhaki Paragraph 38 finding a list of counselors best

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matched to the client needs. The Examiner notes that locating a suitable and available counselor is equivalent to finding *highest ranking service provider.*)

and connecting, by the data processing system, the service seeker to the highest ranking service provider in the relevant field of service' (Itzhaki Paragraph 49

disclosed wherein if for some reason, a counselor is not available for a selected channel and time, the system can prompt a CSR to assist the client in locating a suitable and available counselor wherein the suitable counselor is the best match to the client needs.

The Examiner notes that locating a suitable and available counselor is equivalent to finding *highest ranking service provider.*)

Pugliese, Whyel, Doganata, Pickering, Kung and Itzhaki are analogous art because they present concepts and practices regarding facilitation of audio/video conferences between service seekers and service providers. At the time of the invention it would have been obvious to combine the teachings of Itzhaki regarding an activity log into the system and method of Pugliese- Whyel –Doganata-Pickering-Kung. The said combination would enable searching for professional counselors with fee-based services targeted towards a specific personal need. (Itzhaki-Paragraph 8)

The combination of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed Claim 4 - the method of claim 1, wherein providing the appointment request further comprises: requesting a deposit from the service seeker; once the deposit is received from the service seeker, (Whyel - Figure 7, Item 716 –718, Paragraph 70, Paragraph

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83) verifying a telephone number of the service seeker; and once the service seeker telephone number is verified, sending an appointment request confirmation to the service seeker.(Whyel - Paragraph 87)

The motivation to combine described in Claim 1 applies to Claim 4.

The combination of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed Claim 5 - the method of claim 1, wherein scheduling the live advice communication appointment further comprises: determining whether an appointment acceptance is received from the selected service provider; once the appointment acceptance is received from the selected service provider, sending an appointment confirmation to the service seeker; and sending an appointment confirmation to the selected service provider. (Whyel - Paragraph 14)

The motivation to combine described in Claim 1 applies to Claim 5.

The combination of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed Claim 8 - the method of claim 7, further comprising: once the call between the service seeker and the alternate service provider is complete, providing the service seeker with a gift from the selected service provider. (Pugliese- Paragraph 340, Paragraph 353)

The motivation to combine described in Claim 1 applies to Claim 8.

The combination of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed Claim 10 - the method of claim 1, wherein providing the appointment request further comprises: generating a service seeker appointment alert within an appointment screen of the selected service provider, wherein the appointment screen includes a list of each service provider accepted appointment and a list of alerts for each pending appointment requests received by the selected service provider. (Whyel - Paragraph 43, Paragraph 65)

The motivation to combine described in Claim 1 applies to Claim 10.

The combination of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed Claim 16 and Claim 36 - wherein receiving the appointment request further comprises: viewing an appointments listing page of the selected service provider, (Whyel - Paragraph 43, Paragraph 65) including a listing of each accepted appointment request of the selected service provider (Whyel- Figure 8) and a listing of one or more appointment alerts for pending appointment requests of the selected service provider; (Whyel – Figure 14C) selecting an appointment alert from the one or more alerts listed in the service provider appointment screen; when the service provider is available at an appointment time specified in the appointment alert, accepting the selected appointment alert; and otherwise, declining the selected appointment alert. (Whyel - Paragraph 108 thru Paragraph 115)

The motivation to combine described in Claim 1 applies to Claim 16.

With respect to Claims 21, 24-25,28, 30 the Applicant disclosed a computer storage medium with the same limitations as described in Claims 1, 4-8 and 10. Claims 21, 24-25,28, 30 are rejected on the same basis as Claims 1, 4-8 and 10.

The motivation to combine described in Claim 1 applies to Claims 21, 24-25,28, 30.

Claims 46-50 are rejected on the same basis as Claims 1, 4-8 and 10.

The motivation to combine described in Claim 1 applies to Claims 46-50.

Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed (re. Claim 46) a first unit to display a list of service providers to a service seeker via an internet connection, the list indicating individually whether each service provider in the list of service providers is currently available to provide live advice to the service seeker at a time when the service seeker is viewing the list; (Pickering-Figure 2, Column 2 Lines 40-55)

a second unit to receive, from a service seeker, an appointment request for a live advice communication with a selected service provider during a service seeker specified appointment time; (Pugliese - Paragraph 207-209)

a third unit to determine whether the selected service provider is available during the service seeker specified appointment time. (Whyel – Figure 13B Item 1350, Paragraph 112-113)

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Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed (re. Claim 47)

wherein the third unit is to further:

request a deposit from the service seeker; (Whyel - Figure 7, Item 716 –718, Paragraph 70, Paragraph 83)

once the deposit is received from the service seeker, the third unit is to verify a telephone number of the service seeker; and once the service seeker telephone number is verified, the third unit is to send an appointment request confirmation to the service seeker. (Whyel - Paragraph 14)

Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed (re. Claim 48)

wherein the third unit is to determine whether an appointment acceptance is received from the selected service provider; once the appointment acceptance is received from the selected service provider, the third unit is to send an appointment confirmation to the service seeker; and third unit is to send an appointment confirmation to the selected service provider. (Whyel - Paragraph 14)

Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed (re. Claim 49)

wherein when the selected service provider fails to accept the communications connection from the service provider system, the third unit is to contact an alternate system selected service provider within a field of service of the selected service provider as an alternate service provider; and once the alternate service provider accepts the communications connection from the service provider system, the third unit is to establish a real time communication between the alternate service provider and the

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service seeker for a live advice communication there between. (Pugliese - Figure 6, Paragraph 118, Paragraph 207-211)

Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki disclosed (re. Claim 50) once the real time communication between the service seeker and the alternate service provider is complete, the third unit is to provide the service seeker with a gift from the selected service provider. (Pugliese- Paragraph 340, Paragraph 353)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese (US Publication 2001/0044751), in view of Whyel (US Publication 2001/0027481), further in view of Doganata (US Patent 6798753) further in view of Pickering (US Patent 6076093) further in view of Kung (US Patent 6917610) further in

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view of Itzhaki (US Publication 2002/0010616) further in view of Dolan et al.(US Patent 6477246).

With respect to Claims 9, 19, 20, 29 the combined teachings of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki substantially disclose the method and system as described in the rejection for Claims 1, 4-8 and 10 presented above.

However the combined teachings of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki do not disclose certain features of the claimed invention, such as the service provider receiving an appointment notification while already engaged by a current service seeker. The Examiner notes that while scheduled appointments are a fair indication of general availability, the actual start and end times for scheduled appointments are highly unpredictable. A successful service provider would be loathe to leave a customer in the middle of a sale, and would make all efforts to retain current customer focus despite expiration of scheduled appointment, without disrespecting the next scheduled customer. Thus Pugliese would have found it appropriate and advantageous to search for and implement a system for adjusting schedules on an ad-hoc basis while still maintaining the current customer session.

Dolan disclosed a method for processing incoming communication requests while currently engaged in another communication session. Dolan allows for mediation of the incoming requests without disrupting the current session. (Dolan - Figure 3, Figure 4, Column 3 Lines 30-65, Column 4 Lines 1-45, Column 6 Lines 30-45)

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Dolan disclosed wherein the service provider is engaged in a live advice communication during the service provider system communication connection, notifying the service provider of the scheduled advice communication appointment; (Dolan Column 5 Lines 20-25) receiving a response from the service provider to accept/reject the appointment notification; (Dolan - Column 3 Lines 55-65) when the selected service provider accepts the appointment notification, terminating the live advice communication with a current service seeker; and once the advice communication is terminated, (Dolan – Column 6 Lines 25-35) linking the selected service provider and the service seeker via the communications devices for a live advice communication. (Dolan – Column 6 Lines 15-20)

Pugliese, Whyel, Doganata, Pickering, Kung, Itzhaki and Dolan are analogous art because they present concepts and practices regarding scheduling and managing appointments between a service seeker and a service provider, in the context of live consultation sessions. (Dolan - Column 1 Lines 40-45) At the time of the invention it would have been obvious to combine the teachings of Dolan regarding mediation of incoming communication requests into the combined system and method of Pugliese-Whyel-Doganata-Pickering-Kung. The said combination would enable the combined system of Pugliese-Whyel-Doganata-Pickering-Kung to 1) alert the service provider of an incoming service request during an ongoing consultation session, and 2) enable service provider of the combined system of Pugliese-Whyel-Doganata-Pickering-Kung-Itzhaki to screen, filter, redirect, or defer incoming service requests while preventing

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disruption of the current communication session. The motivation for doing so would be, as Dolan suggests (Dolan - Column 1 Lines 30-55), to overcome the limitations of simple non-interactive call redirection or call forwarding systems, which do not place any context on the incoming request, nor provide any indication of next available time slot for the service provider, nor allow for impromptu 'return-call' scheduling with confirmation from both parties.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure

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relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Greg Bengzon/
Examiner, Art Unit 2444

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